

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Kevin Crowley,
Petitioner-Appellant,

v.

Black Hawk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 12-07-0428
Parcel No. 8913-26-132-006

On July 1, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Kevin Crowley was self-represented. David J. Mason is counsel for the Board of Review. Deputy Assessor T.J. Koenigsfeld represented the Board of Review at the hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Kevin Crowley is the owner of property located at 632 West Mullan Avenue, Waterloo, Iowa. The real estate was classified residential on the January 1, 2012, assessment and valued at \$68,480, representing \$9,310 in land value and \$59,170 in improvement value. The record indicates this parcel was reassessed in 2012 and therefore all grounds for appeal under Iowa Code section 441.37 are available.

Crowley protested his assessment to the Black Hawk County Board of Review on the ground the property was assessed for more than authorized by law under section 441.37(1)(a)(2). He asserted the correct value was \$40,480. The Board of Review denied the protest. Crowley reasserted his claim to this Board stating the assessed value should be \$45,000.

The property record card indicates the subject is a two-story, frame home built in 1906. It has 1880 square-feet of above-grade living area, and a full, unfinished basement. There is a 399 square-foot, detached garage, and 188 square feet of enclosed porch. The dwelling has an average quality (4+5) grade and is listed in normal condition. The site is 0.19 acres.

The certified record did not include any evidence submitted by Crowley and he did not offer any exhibits at hearing. However, he testified at hearing that the Assessor did not take into account the market conditions in the neighborhood. He stated the triplexes on both sides of his property had a history of drug manufacturing and violent crimes. Crowley testified the police had been to both of these homes numerous times, which he believed devalued his property. Additionally, his home had been broken into, which he believed was because it was mistaken for one of the neighboring properties.

Crowley reported several homes in the neighborhood sold for much less than his assessment. He identified a property located at 426 Western Avenue that was very comparable to his home, almost a “clone” of his home that sold for \$40,000 in April 2012. He stated the Assessor’s three comparable sale properties are not good comparables because they were almost out of the neighborhood and two of the three were the highest sale prices in the area.

T.J. Koenigsfeld, the Black Hawk County Deputy Assessor, testified on behalf of the Board of Review. The 2011 assessment of \$54,110 assumed the subject property was in below-normal condition. After the Board of Review instructed the assessor’s office to inspect the subject property in May 2011, a representative from the assessor’s office attempted to inspect the interior of subject property but was refused entrance by Crowley. The 2012 assessment of \$68,480 assumed the property was in normal condition.

The assessor’s office provided three comparable 2011 sales from the area. The sale prices were adjusted to account for the differences in amenities between these properties and Crowley’s dwelling.

The adjustments appear to be based on the cost manual and not based on market conditions, thereby limiting the reliability of the adjusted values. The assessor determined the median sales price per-square-foot was \$39.06 per square foot. Crowley's property is assessed at \$36.42 per-square foot.

Koenigsfeld testified the assessor's office uses normal, arm's-length transactions every two years to develop a sales/assessment ratio study. The study for assessment year 2013 indicated that sale prices of properties in Crowley's area were lower than their assessed values. Therefore, the 2012 assessment of \$68,480 was reduced to \$59,750 in 2013.

This Board requested property record cards on two parcels identified at hearing: 428 Locust Street and 426 Western Avenue. The Assessor sent a letter along with the property record card for 428 Locust Street. They were not able to locate the property at 426 Western Avenue. The letter also provided information on a recent normal sale at 408 Western Avenue. This property is a one and one-half story home that sold for \$79,900 on December 20, 2012. Because the sale occurred nearly a year after the assessment date and it is unadjusted, it is not relevant to this case and we give it no consideration.

The home at 428 Locust Street is a two-story home built in 1901. It was assessed at \$56,890 as of January 1, 2012. The property sold in October 2011 for \$30,897. At the time, it was a rental unit in below-normal condition and needed lots of maintenance. The sale was reportedly pressured because the seller wanted out of the rental business. The home is similar in quality to the subject property, 476 square feet smaller, and does not have a garage. Because of the differences between 428 Locust Street and the subject property, its condition at the time of sale and the lack of adjustments to account for these differences, the sale price is not a reliable indicator of the market value of Crowley's property. Therefore, the petitioner has not proved by a preponderance of the evidence that the subject property is over-assessed.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Alternatively, a sales price in an abnormal transaction, including a foreclosure sale, is not to be taken into account unless the distorting factors can be clearly accounted for. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

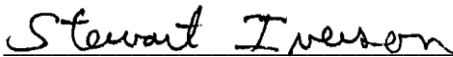
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the

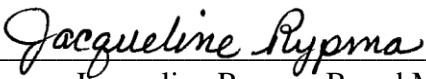
subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

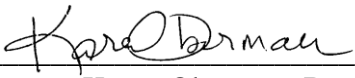
Crowley did not present any documentary evidence to prove the assessment is excessive or evidence of the property's correct value. Although Crowley testified as to some home sales, there was no evidence of their market value to support his claims. He only disputed the comparable property values that the assessor's office provided to this Board. While Crowley's testimony suggests the subject property may be over-assessed, it is Crowley's burden to provide sufficient evidence establishing the subject property's correct value as January 1, 2012, and he failed to do this.

THE APPEAL BOARD ORDERS the assessment of Kevin Crowley's property located at 632 West Mullan Avenue, Waterloo, Iowa of \$68,480 as of January 1, 2012, is affirmed.

Dated this 24th day of July, 2013.


Stewart Iverson, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

Copies to:
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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>July 24, 2013</u> .	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
	
Signature _____	